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Frozen Dessert Licensing Program

RSMo 196.866 requires every person, firm, association or corporation, before engaging in the business of manufacturing or freezing ice cream, mellorine (a frozen dessert where vegetable fat has replaced cream), or other defined frozen dessert products first obtain a license from the Department of Health and Senior Services.

A license shall be obtained for each plant or place of business where ice cream, ice cream mix, ice milk, sherbert, frozen malt mix, mellorine, edible fat frozen dessert or ices are manufactured or frozen. Most frequently this applies to restaurants, convenience stores and other food establishments with a soft-serve ice cream machine.

To obtain a license, each manufacturer must submit a completed Frozen Dessert application, copy of their most recent health department inspection report and appropriate license fee to Central Office. Once payment has been processed and the application packet approved, a frozen dessert license is issued to the establishment. The license for ice cream manufacturers expires one year following the date of issuance and shall be renewed annually.

The Department of Health and Senior Services has determined that ice beverage products such as icees, slurpies, frozen cappuccino, etc. are not frozen desserts as defined by our regulation, thus establishments serving only these products are not required to be licensed. Establishments serving only hard hand-dipped ice cream, manufactured at a licensed plant, **do not** require a frozen dessert license.

Duties of BERL Staff:

1. Maintain updated inventory of all frozen dessert establishments.
2. Issue a license to all frozen dessert establishments that submit an eligible application.
3. Provide statewide program evaluation, update forms and develop standard operating procedures.
4. Evaluate and interpret laboratory results on samples collected by representatives of the state.
5. Provide consultation to Regional staff, LPHA staff, industry and the public.
6. Provide technical assistance and training to Regional staff, LPHA staff, industry and public.
7. Conduct sanitation inspections of frozen dessert manufacturing plants.
8. Submit reports to Regional staff of non-compliant establishments.
9. Assist with enforcement activities against those frozen dessert establishments operating without a valid, current frozen dessert license.
10. Conduct routine monitoring of the LPHA to assure Core Contract deliverables are being met.
11. Maintain working relationship with LPHA staff and industry.

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Common Responsibilities of Local Public Health Agency

1. Maintain working knowledge of the frozen dessert law.
2. Perform annual sanitation inspections of retail frozen dessert-manufacturing facilities (counter-freezer type machines).
3. Maintain a current inventory of all establishments that manufacture and freeze frozen dessert, including milk, vegetable-fat derived products and water ices (Popsicles etc. not slushies and slurpies).
4. When making inspections of these establishments check to assure that the facility is reasonably in compliance with the Missouri 1999 Food Code and/or applicable local ordinance.
5. Note on the inspection report if the facility should or should not be approved for a frozen dessert license.
6. Submit a DH-50 Change Order Form to Central Office on frozen dessert establishments that have undergone a status change, such as, new establishment, change in owner, name and/or address or if the establishment has closed.
7. Maintain a working relationship with BERL staff, industry and other governmental agencies.
8. Work with Regional and Central Office BERL staff to pursue enforcement actions against frozen dessert establishments operating without a valid, current frozen dessert license.

Preliminary

- A. Review of food service establishments to determine when a frozen dessert license is needed.
 1. The statute states, "A license shall be obtained for each plant or place of business where ice cream, ice cream mix, mellorine, edible fat frozen dessert or ices are manufactured or frozen." In most cases, this is a retail processor that has counter-top or floor-mounted freezer that freezes a mix as defined in the statute, for dispensing into cones, cups or other containers for immediate sale or frozen solid and sold for a display case.
 2. The law does not apply to private homes, hospitals, churches or fraternal organizations manufacturing such products for their own use or to retailers dealing in ice cream or frozen dessert products received in the final frozen form from a licensed manufacturer.
 3. For the purposes of the licensing program, frozen desserts are more than just "soft ice cream" or "ice milk." The definition includes ice cream, frozen custard, frozen yogurt, ice milk, sherbet, water ice, mellorine, or other frozen dessert products. If you are unsure if a product you encounter meets the definition of a frozen dessert in the regulations call program staff in the central office.
 4. When an establishment has a processing machine (freezer), a frozen dessert license is required. Even if the machine is not operated during the winter months, it most likely will be in the summer.

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Inspection Procedures

- A. Frozen Dessert establishments must be inspected at least annually.
- B. The frozen dessert inspection is not a separate inspection of a food service or retail food establishment, but merely a part of your routine inspection of the facility.
- C. Check to assure that the facility is reasonably in compliance with the Missouri 1999 Food Code and/or applicable local food service sanitation ordinance.
- D. Check for approved sources of all mixes used in frozen dessert. If a questionable source of mix is found, report your findings to Regional staff.
- E. Determine if the facility is using rerun product. Rerun is the reuse of frozen dessert mix that was previously in the machine and limited to the mix that is drawn from the machine immediately prior to machine disassembly. If the facility uses rerun product, review the facilities policies on its use to assure it is being handled and stored properly. The cycle of using rerun product must be broken at least every four days.
- F. Assure that the machine is being disassembled, cleaned and sanitized in accordance with the manufactures specifications and frequencies. Some general guidance concerning machine-cleaning frequencies are noted below: Machines not having a standby mode must be disassembled, cleaned and sanitized nightly. If the machine is equipped with a standby mode, the machine must be disassembled, cleaned and sanitized at least every four days. The Taylor Labor Saver is a notable exception; the cleaning frequency for this type of machine is at least every fourteen days. Cleaning many of these machines is time consuming and somewhat tedious, take advantage of any opportunity to inspect these machines when they are disassembled to see that they are being properly cleaned and maintained.
- G. Check the temperature of the mix in the machine hopper. The frozen dessert mix must be maintained at temperatures that are in compliance with food code requirements (41 or 45 degrees Fahrenheit). Record the temperature on E6.37 "Food Establishment Inspection Report."
- H. When inspecting a food service or retail food establishment that has been identified as manufacturing frozen desserts, check the Frozen Dessert category on Form E6.37 "Food Establishment Inspection Report: in Section A-Food Service Establishment Type Section as appropriate. Enter the frozen dessert establishment number from the posted license (upper left-hand corner) on E6.37.
- I. Finally, note on the inspection report if the facility should or should not be approved for a frozen dessert license. Use your professional judgment when making this decision. At the time of the initial inspection the facility should be approved for a frozen dessert license unless it is anticipated that enforcement action (work order, closing order, suspension of a food service license) will be taken against the facility, in these cases the facility should be disapproved for a frozen dessert license until a reinspection is conducted. A timely reinspection of the facility must be scheduled and completed to determine if the facility has taken the necessary steps to gain compliance with food code requirements. If at the time of the reinspection appropriate corrective measures have been taken the facility should then be approved for a frozen dessert license. If at the time of the reinspection the facility is in continued noncompliance, the facility should be disapproved for a frozen dessert license and appropriate enforcement action should be

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taken against the facility as outlined in Subsection 3.2 – Enforcement Guidelines. When a facility has been disapproved for a frozen dessert license after the initial and follow-up inspection and enforcement action (work order, closing order, suspension of a food service license) is being taken against a facility that is serving frozen desserts notify your Regional EPHS and the Frozen Dessert Program Coordinator.

- J. If it is determined that the establishment is reasonably in compliance with food sanitation standards and is approved for a frozen dessert license, but is currently not operating with a valid frozen dessert license, advise the facility's management that they are in violation of state law and notify Central Office. Central Office will send a frozen dessert application to the establishment along with a cover letter detailing the steps towards obtaining a license. Indicate such action in the establishment number blank on E6.37: "Food Establishment Inspection Report."
- K. If an establishment no longer needs a license, closes, changes ownership, name or address submit a DH-50 Change Order form to Central Office
- L. If a new establishment opens and needs a frozen dessert license submit a DH-50 Change Order form to Central Office. Central Office will send a frozen dessert application to the establishment along with a cover letter detailing the steps towards obtaining a license.

REFERENCES

Chapter 196.851 – 196.895 RSMo 2000 Manufacture and Sale of Ice Cream and Frozen Food Products.
 19 CSR 20-1.030 Sanitation and Production Standards for Frozen Desserts
 E6.02 State Laws Accompanied by DHSS Rule Governing the Manufacture and Sale of Ice Cream and Related Frozen Food Products (11/87)
 E6.12 "Recommended Food Service Ordinance
 Procedures for cleaning and sanitizing frozen dessert machines – Taylor Video Training System
 Product Safety – P555, P/N 043570-V (NTSC) REFERENCE MATERIAL
 E5.85 – Test of Frozen Dessert Plant Equipment to be made by Department of Health and Senior Services
 1999 Missouri Food Code 19CSR 20-1.025 Sanitation of Food Establishments

FORMS

E5.84 Frozen Dessert Plant Inspection Form
 E5.87 Application for Frozen Dessert License
 E6.07 Sanitation Observation Sheet
 DH-50 Change Order Form
 E6.37 Food Establishment Inspection Report (11/99)